

1 MAYER BROWN LLP
2 JOHN ZAIMES (SBN 91933)
3 *jzaimes@mayerbrown.com*
4 RUTH ZADIKANY (SBN 260288)
5 *rzadikany@mayerbrown.com*
6 350 South Grand Avenue, 25th Floor
Los Angeles, California 90071-1503
Telephone: (213) 229-9500
Facsimile: (213) 625-0248

7 MAYER BROWN LLP
8 Archis A. Parasharami (DC Bar No. 477493)
9 (admitted *pro hac vice*)
10 *aparasharami@mayerbrown.com*
11 1999 K Street NW
Washington, DC 20006
Telephone: (202) 263-3000
Facsimile: (202) 263-3300

12 Attorneys for Defendant
13 LYFT, INC.

14
15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA

17 EMILY WOLF, on behalf of herself and all
18 others similarly situated,

19 Plaintiffs,

20 vs.

21 LYFT, INC.,

22 Defendant.
23
24
25
26
27
28

Case No. 4:15-CV-01441-JSW

**DECLARATION OF RUTH ZADIKANY
IN SUPPORT OF LYFT, INC.'S
NOTICE OF MOTION AND MOTION
TO DISMISS OR STAY ACTION**

Date: July 31, 2015
Time: 9:00 a.m.
Courtroom: 5, 2nd Floor

Honorable Jeffrey S. White

[Notice of Motion and Motion to Dismiss or
Stay Action, Memorandum of Points and
Authorities In Support Thereof, and
[Proposed] Order Filed Concurrently
Herewith]

1 I, Ruth Zadikany, hereby declare as follows:

2 1. I am an attorney licensed to practice law before the courts of the State of
3 California. I am an associate at the law firm of Mayer Brown LLP, and counsel of record for
4 Defendant Lyft, Inc. ("Lyft") in this action. I make this declaration in support of Lyft's Motion to
5 Dismiss or Stay Action. I have personal knowledge of the matters set forth herein, and could and
6 would competently testify thereto if called as a witness.

7 2. Attached hereto as Exhibit A is a true and correct copy of the Offer of Judgment
8 pursuant to Federal Rule of Civil Procedure 68 that Lyft served on plaintiff Emily Wolf.

9 3. Attached hereto as Exhibit B is a true and correct copy of an email from Ms.
10 Wolf's counsel, Daniel Hutchinson, declining Lyft's Rule 68 Offer of Judgment.

11 4. Attached hereto as Exhibit C is a true and correct copy of the full text of Docket
12 Entry Number 118 in *Mey v. Frontier Commc'ns Corp.*, No. 3:13-cv-01191 (D. Conn. May 26,
13 2015).

14 5. Attached hereto as Exhibit D is a true and correct copy of Docket Number 462, the
15 Court's Order Staying *In re Monitronics Int'l, Inc. Telephone Consumer Protection Act Litig.*,
16 No. 1:13-md-2493 (N.D. W.Va. June 17, 2015).

17 I declare under penalty of perjury under the laws of the State of California that the
18 foregoing is true and correct.

19 Executed on the 26th day of June, 2015, at Los Angeles, California.

20 /s/ Ruth Zadikany
21 Ruth Zadikany
22
23
24
25
26
27
28

EXHIBIT A

1 MAYER BROWN LLP
2 JOHN ZAIMES (SBN 91933)
3 *jzaimes@mayerbrown.com*
4 RUTH ZADIKANY (SBN 260288)
5 *rzadikany@mayerbrown.com*
6 350 South Grand Avenue, 25th Floor
Los Angeles, California 90071-1503
Telephone: (213) 229-9500
Facsimile: (213) 625-0248

7 Attorneys for Defendant
8 LYFT, INC.

9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11
12 EMILY WOLF, on behalf of herself and all
13 others similarly situated,,
14
15
16
17

Plaintiffs,

vs.

LYFT, INC.,

Defendant.

Case No. 4:15-CV-01441-JSW

**DEFENDANT LYFT, INC.'S OFFER OF
JUDGMENT**

Judge: Hon. Jeffrey S. White

Complaint filed: March 30, 2015

EXH. A 000002

1 Pursuant to Federal Rule of Civil Procedure 68, Defendant Lyft, Inc. ("Lyft") hereby
2 offers to allow judgment to be entered against it in this action in the amount of \$1,503 for each
3 SMS text message that plaintiff Emily Wolf allegedly received from or on behalf of Lyft, and to
4 pay Wolf any costs that are recoverable in this action, as determined by the Court.

5 Specifically, this offer of judgment includes \$1,503 per SMS text message (\$501 trebled)
6 that Wolf has requested as statutory damages for alleged violation of the Telephone Consumer
7 Protection Act ("TCPA"). Wolf has alleged that she received one SMS text message to her
8 cellular phone number in January 2015. Lyft will pay Wolf \$1,503 for that message.

9 Lyft further offers to pay for any and all reasonable costs allowable under law incurred by
10 Wolf as of the date of this offer. Wolf must file a bill of costs pursuant to 28 U.S.C. § 1920
11 pursuant to Local Rule 54.1 to recover such costs.

12 Although Wolf's complaint requests attorneys' fees, it is well established that attorneys'
13 fees are not recoverable under the TCPA..

14 In addition, Lyft will pay Wolf pre-judgment interest, to the extent authorized by law,
15 from the time the case was filed through the time of entry of Judgment. Pre-judgment interest
16 shall be calculated according to the rate set forth pursuant to 28 U.S.C. § 1961, at the time of
17 entry of Judgment. Lyft will also pay Wolf post-judgment interest, to the extent authorized by
18 law, from the time of entry of Judgment, through the time when Lyft deposits with the Court its
19 total payment, or otherwise proffers that total payment to Wolf. Post-judgment interest will be
20 calculated according to the rate set forth pursuant to 28 U.S.C. § 1961, at the time of entry of
21 Judgment.

22 The payments described in this Offer of Judgment constitute the total payment from Lyft
23 to Wolf for all damages and costs accrued as of the date of service of this Offer of Judgment, as
24 well as prejudgment and postjudgment interest.

25 Lyft further offers to stipulate to having the Court enter an injunction barring Lyft from
26 sending SMS text messages to Wolf in the future unless Wolf provides prior express written
27 consent to send such messages.

28 This offer is intended to fully satisfy Wolf's individual claims asserted in this action or

1 which could have been asserted in this action.

2 Pursuant to Federal Rule of Civil Procedure 68, this offer of judgment is made at least
3 fourteen days before the date set for trial. This offer shall be deemed withdrawn unless written
4 notice of acceptance is received within fourteen days of service. This offer of judgment is made
5 for purposes of Rule 68 only and shall not constitute or otherwise be construed as an admission of
6 liability in any respect.

7
8 Dated: June 9, 2015

MAYER BROWN LLP

9
10 By: 

11 John P. Zaimes

12 Attorneys for Defendant
13 LYFT, INC.
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXH. A 000004

PROOF OF SERVICE

I, Hae Jung Park, declare:

I am employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is Mayer Brown LLP, 350 South Grand Avenue, 25th Floor, Los Angeles, California 90071-1503. On June 9, 2015, I served a copy of the within document(s):

DEFENDANT LYFT, INC.'S OFFER OF JUDGMENT

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the **United States mail** at Los Angeles, California addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Please see attached service list.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

I declare under penalty of perjury under the laws of the United States of America that the above is true and correct.

Executed on June 9, 2015, at Los Angeles, California.



Hae Jung Park

EXH. A 000005

PROOF OF SERVICE, CASE NO. 4:15-CV-01441-JSW

700573121

SERVICE LIST

Jonathan D. Selbin *Attorneys for Plaintiff*
Lieff Cabraser Heimann & Bernstein, LLP *Emily Wolf*
250 Hudson Street, 8th Floor
New York, NY 10013
Tel.: (212) 355-9500
Fax: (212) 355-9592
Email: *jselbin@lchb.com*

Daniel M. Hutchinson
Lieff Cabraser Heimann & Bernstein, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
Tel.: (415) 956-1000
Fax: (415) 956-1008
Email: *dhutchinson@lchb.com*

John T. Spragens (*pro hac vice*)
Lieff Cabraser Heimann & Bernstein, LLP
One Nashville Place
150 4th Avenue North, Suite 1650
Nashville, TN 37219
Tel.: (615) 313-9000
Fax: (615) 313-9965
Email: *jspragens@lchb.com*

Matthew R. Wilson
Michael J. Boyle, Jr.
Meyer Wilson Co., LPA
1320 Dublin Road, Suite 100
Columbus, Ohio 43215
Tel.: (614) 224-6000
Fax: (614) 224-6066
Email: *mwilson@meyerwilson.com*
mboyle@meyerwilson.com

EXHIBIT B

Zaimes, John

From: Hutchinson, Daniel M. [dhutchinson@lchb.com]
Sent: Friday, June 19, 2015 1:26 PM
To: Zaimes, John; Parasharami, Archis A.; Zadikany, Ruth
Cc: Park, Hae Jung; Selbin, Jonathan D.; Spragens, John T.; mwilson@meyerwilson.com; mboyle@meyerwilson.com
Subject: RE: Wolf v. Lyft - Offer of Judgment [MB-AME.FID1337279]

Good afternoon counsel,

As we confirmed in our meet and confers on June 15 and today, Plaintiff declines Lyft's offer of judgment.

Best regards,

**Lieff
Cabraser
Heimann &
Bernstein**

Daniel M. Hutchinson
dhutchinson@lchb.com
t 415.956.1000
f 415.956.1008
Lieff Cabraser Heimann & Bernstein, LLP
275 Battery Street, 29th Floor
San Francisco, CA 94111-3339
www.lieffcabraser.com

From: Park, Hae Jung [mailto:HPark@mayerbrown.com]
Sent: Tuesday, June 09, 2015 5:30 PM
To: Selbin, Jonathan D.; Hutchinson, Daniel M.; Spragens, John T.; mwilson@meyerwilson.com; mboyle@meyerwilson.com
Cc: Zaimes, John; Zadikany, Ruth
Subject: Wolf v. Lyft - Offer of Judgment [MB-AME.FID1337279]

Sent on behalf of John Zaimes.

Thank you.

Hae Jung Park

Assistant to John P. Zaimes,
Max L. Del Rey, Justin R. Dickerson,
and Justin Yu
Mayer Brown LLP
Tel: +1-213-621-9461 (Direct)
Fax: +1-213-625-0248
hpark@mayerbrown.com

 Please consider the environment before printing this e-mail. If you need to print it, please consider printing it double-sided. Thank you.

This email and any files transmitted with it are intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager. If you are not the named addressee you should not disseminate, distribute or copy this e-mail.

This message is intended for the named recipients only. It may contain information protected by the attorney-client or work-product privilege. If you have received this email in error, please notify the sender immediately by replying to this email. Please do not disclose this message to anyone and delete the message and any attachments. Thank you.

EXHIBIT C

Full docket text for document 118:

ORDER. As discussed during the telephonic status conference today, the parties shall file a joint status report on or before **June 3, 2015**, briefly indicating: (1) the progress of discovery so far, and (2) each party's proposal for conducting discovery with respect to Five9 and, if necessary, Virido. As indicated on the call, the Court intends to issue an order staying or administratively closing this case, but will allow discovery to proceed as Five9 and, if necessary, Virido.

Signed by Judge Michael P. Shea on 5/26/15.(Bradley, K.)

PACER Service Center			
Transaction Receipt			
06/26/2015 14:54:34			
PACER Login:	mb0274:2592731:0	Client Code:	
Description:	History/Documents	Search Criteria:	3:13-cv-01191-MPS
Billable Pages:	1	Cost:	0.10

EXHIBIT D

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

IN RE: MONITRONICS
INTERNATIONAL, INC.,
TELEPHONE CONSUMER
PROTECTION ACT LITIGATION

MDL NO. 1:13MD2493

THIS DOCUMENT RELATES TO ALL CASES

ORDER STAYING CASE

On May 29, 2015, the defendants, Monitronics International, Inc., Versatile Marketing Solutions, Inc., Alliance Security, Inc., ISI Alarms NC, Inc., UTC Fire and Security Americas Corporation, Inc., and Honeywell International, Inc. ("the defendants"), filed a motion to stay the case pending the rulings of the Supreme Court of the United States in Campbell-Ewald Co. v. Gomez, 768 F.3d 871, 875 (9th Cir. 2014), cert. granted No. 14-857, 2015 WL 246885, at *1 (May 18, 2015), and Robins v. Spokeo, 742 F.3d 409 (9th Cir. 2014), cert. granted No. 13-1339, 2015 WL 1879778, at *1 (Apr. 27, 2015) (Dkt. No. 419). On June 8, 2015, the plaintiffs responded, opposing the motion to stay (Dkt. No. 435), and on June 12, 2015, the defendants filed a reply (Dkt. No. 455).

On June 15, 2015, the parties jointly filed a proposed stipulation in which they stipulated to a stay of proceedings pending the Supreme Court's decisions in Campbell-Ewald and Spokeo, with certain exceptions (Dkt. No. 457). For good cause shown, the

EXH. D 000010

IN RE MONITRONICS
THIS DOCUMENT RELATES TO ALL CASES

1:13MD2493

ORDER STAYING CASE

Court **ADOPTS** the proposed stipulation (Dkt. No. 457), **STAYS** the MDL until the Supreme Court decides or otherwise disposes of Campbell-Ewald and Spokeo, and **DENIES AS MOOT** the pending motion to stay filed by the defendants (Dkt. No. 419). The stay is subject to the exceptions outlined in the parties' proposed stipulation (Dkt. No. 457), and in no way affects the Court's power to approve any proposed settlements and enter judgments.

It is so **ORDERED**.

The Court **DIRECTS** the Clerk to transmit copies of this Order to counsel of record and to the pro se plaintiffs by certified mail, return receipt requested.

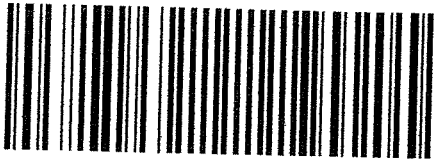
DATED: June 17, 2015.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE

7014 2870 0001 0202 5755

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL®



7014 2870 0001 0202 5755
7014 2870 0001 0202 5755

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
Domestic Mail Only

For delivery information, visit our website at www.usps.com®

OFFICIAL USE

Postage \$

Craig Cunningham
5543 Edmondson Pike
Suite 248
Nashville, TN 37211
1:13md2493 462 (ALL CASES)

is/mark
Here

Se
Date

Street & Apt. No.,
or PO Box No.
City, State, ZIP+4

PS Form 3800, July 2014 See Reverse for Instructions

EXH. D 000012